

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

SCOTT WALLACE,  
Plaintiff,

v.

EXPERIAN INFORMATION SOLUTIONS,  
INC., et al.,  
Defendants.

Case No. 16-CV-00556-LHK

**ORDER GRANTING MOTION TO  
DISMISS**

Re: Dkt. No. 40

On April 11, 2016, Defendant Credit Bureau of Placer County, Inc. (“Credit Bureau”) filed a motion to dismiss Plaintiff Scott Wallace’s Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). ECF No. 40. Plaintiff did not file an opposition. Credit Bureau filed a reply noting Plaintiff’s failure to oppose the motion to dismiss on April 27, 2016. ECF No. 49. Pursuant to Civil Local Rule 7-1(b), the Court finds this matter appropriate for resolution without oral argument and VACATES the motion hearing set for June 30, 2016. The Case Management Conference scheduled for June 30, 2016 at 1:30 p.m. remains as set.

Because Plaintiff did not oppose Credit Bureau’s motion, the Court GRANTS Credit Bureau’s motion to dismiss.

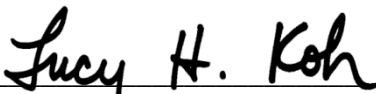
Under Rule 15(a) of the Federal Rules of Civil Procedure, leave to amend “shall be freely

1 given when justice so requires,” bearing in mind “the underlying purpose of Rule 15 . . . [is] to  
2 facilitate decision on the merits, rather than on the pleadings or technicalities.” *Lopez v. Smith*,  
3 203 F.3d 1122, 1127 (9th Cir. 2000) (en banc) (ellipsis in original). A district court may deny  
4 leave to amend a complaint due to “undue delay, bad faith or dilatory motive on the part of the  
5 movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice  
6 to the opposing party by virtue of allowance of the amendment, [and] futility of amendment.” *See*  
7 *Leadsinger, Inc. v. BMG Music Publ’g*, 512 F.3d 522, 532 (9th Cir. 2008) (brackets in original).

8 Because the Court concludes that amendment would not be futile, the Court dismisses  
9 Plaintiff’s Complaint with leave to amend. Should Plaintiff elect to file an amended complaint,  
10 Plaintiff shall do so within 21 days of the date of this Order. Failure to meet the 21 day deadline  
11 to file an amended complaint or failure to cure the deficiencies identified in Credit Bureau’s  
12 motion to dismiss will result in a dismissal with prejudice of Plaintiff’s claims. Plaintiff may not  
13 add new causes of action or parties without leave of the Court or stipulation of the parties pursuant  
14 to Rule 15 of the Federal Rules of Civil Procedure.

15 **IT IS SO ORDERED.**

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17 Dated: June 23, 2016

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19 LUCY H. KOH  
20 United States District Judge  
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